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No. 06-480

In The

Supreme Court of the United States

LEEGIN CREATIVE LEATHER PRODUCTS, INC.,

Petitioner,

v.

PSKS, INC., dba KAY'S KLOSET . . . KAY'S SHOES

On Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

BRIEF FOR ANDERSON ECONOMIC GROUP, LLC AS AMICUS CURIAE SUPPORTING RESPONDENT

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QUESTION PRESENTED

Whether vertical minimum resale price maintenance agreements should be deemed per se illegal under Section 1 of the Sherman Act, 15 U.S.C. § 1, or whether they should instead be evaluated under the rule of reason.

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INTEREST OF ANDERSON ECONOMIC GROUP

Anderson Economic Group, LLC is an economics consulting firm in East Lansing, Michigan and Chicago, Illinois. Antitrust economics is a specific area of expertise of the firm. Principal Patrick L. Anderson and Senior Economist Ilhan K. Geckil have provided expert testimony and consulting services in the area of antitrust economics, and have authored scholarly articles and expert reports addressing antitrust economics issues. Mr. Anderson is also the author of a textbook on business economics. Theodore R. Bolema is a consultant affiliated with the Anderson Economic Group antitrust economics practice and was a trial attorney with the Antitrust Division of the U.S. Department of Justice for eight years. The firm has consulted for both franchisors and franchisees in the automotive, alcoholic beverage, and other industries in which vertical arrangements are common. Anderson Economic Group submits this brief to provide practical insights from their professional experience on the question presented in this case, and propose an approach to evaluating minimum resale price maintenance that would maintain some form of per se treatment.[1]

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[1] This brief is filed with the consent of all parties, who have filed letters of consent with the Clerk. No counsel for a party authored the brief in whole or in part, nor did any person or entity, other than amicus curiae and its counsel, made a monetary contribution to the preparation or submission of this brief.

SUMMARY OF THE ARGUMENT

Some form of a per se rule for minimum resale price maintenance ("RPM") policies should be preserved.

A. The Supreme Court recognizes that per se rules offer important economic efficiency benefits.

B. The Court does not have to choose between the extremes of maintaining full per se illegality for minimum RPM, or subjecting all RPM practices to rule of reason analysis. The Court has applied "quick look" variations for a range of other practices that may violate the antitrust laws.

C. By definition, minimum RPM is intended to maintain prices at levels higher than would prevail in the absence of the RPM policy. Thus, the anti-competitive potential for limiting competition at the retail level and reducing consumer welfare is obvious.

D. Various forms of price, quality, and quantity discipline in "vertical" arrangements offer pro-competitive benefits, some of which may be significant. However, the mere existence of consumer benefits does not eliminate the benefits to those same consumers of clearly condemning practices that are hard to detect, harder still to prove, and which rarely provide benefits that outweigh the harm.

E. Our practical experience in consulting in industries in which "vertical" arrangements are common underscores both the benefits of some communication about prices and products within a franchise, and the risks of allowing discipline to escalate to price-fixing and market allocation of the type the per se rule was originally intended to discourage.

F. Our practical experience also underscores the difficulty in detecting and proving collusion, even when

the facts clearly establish that collusion took place. Those that practice collusion have a much easier time covering their tracks than those suspecting it have of proving it.

G. Newer technology now allows real-time pricing and inventory information to be shared among franchisees and franchisors, thus magnifying the potential scope and harm of RPM policies.

H. Anti-competitive minimum RPM, if allowed to lapse into the "rule of reason" analysis, would often go undetected, and would be far less likely to be deterred, than under the per se rule.

ARGUMENT

THIS COURT SHOULD NOT SUBJECT ALL RESALE PRICE MAINTENANCE TO THE RULE OF REASON

In *Dr. Miles Med. Co. v. John D. Park & Sons Co.*, 220 U.S. 373 (1911) ("*Dr. Miles*"), this Court ruled unlawful a vertical agreement between a medicine supplier and wholesalers and retailers regarding the minimum price at which the medicines could be resold. The ruling in the *Dr. Miles* case has generally been understood as having established a per se rule against RPM. *Continental T.V., Inc. v. GTE Sylvania, Inc.*, 433 U.S. 36, 51 n.18 (1977); *Business Elecs. Corp. v. Sharp Elecs. Corp.*, 485 U.S. 717, 733 (1988); *NYNEX Corp. v. Discon, Inc.*, 525 U.S. 128, 133 (1998).

In the last two decades, the Court has narrowed the scope of the per se rule for some vertical agreements other than minimum RPM, based on developments in economic analysis. In *Continental T.V., Inc. v. GTE Sylvania, Inc.*,

433 U.S. 36 (1977) ("*Sylvania*"), the Court ruled that vertical non-price agreements would be subject to a rule of reason analysis. In *State Oil Co. v. Khan,* 522 U.S. 3 (1997), the Court ended the per se prohibition against maximum price-fixing agreements. This Court has not, however, overruled the per se treatment of minimum resale price maintenance, which raises more obvious anti-competitive concerns than non-price or maximum RPM practices.

While the Court should consider clarifying the standard to be applied to minimum RPM to reflect recent economic developments, proving a minimum RPM violation should not require in every situation that the plaintiff prove a full rule of reason case.

A. Per Se Rules In General Offer Important Economic Efficiency Benefits

Section 1 of the Sherman Act, 15 U.S.C. § 1, declares every "contract, combination . . . , or conspiracy, in restraint of trade . . . to be illegal." This broad language suggests that all concerted activity that restrains trade is illegal. In developing the standards for interpreting the Act, this Court has consistently interpreted Section 1 as condemning only unreasonable restraints of trade. In doing so, this Court has identified certain conduct as illegal per se, and has required that other conduct be evaluated under a rule of reason, based on the effects under the specific circumstances before the Court.

The Court has noted that "certain kinds of agreements will so often prove so harmful to competition and so rarely prove justified that the antitrust laws do not require proof that an agreement of that kind is, in fact, anti-competitive

in the particular circumstances." *NYNEX Corp. v. Discon, Inc.*, 525 U.S. at 133. For example, in *FTC v. Superior Court Trial Lawyers Ass'n*, 493 U.S. 411, 432-36 (1990), a group boycott aimed at raising the compensation for public defenders was found per se unlawful after little consideration of market power or the defendant's justifications.

Choosing between a per se rule, a rule of reason, or something in between requires that the Court make tradeoffs. A per se rule sacrifices some accuracy by condemning some conduct as anti-competitive that a more careful review would find reasonable. In exchange, however, a per se rule offers important benefits.

1. A per se rule lowers the cost of antitrust litigation

Antitrust trials under the rule of reason are complicated and expensive to litigate. A per se rule condemns a category of conduct without requiring that the plaintiff (i) prove that the defendant possesses market power, (ii) prove an unreasonable outcome, such as higher prices or reduced output, and (iii) rebut the defendant's justifications. "This principle of per se unreasonableness not only makes the type of restraints which are proscribed by the Sherman Act more certain to the benefit of everyone concerned, but it also avoids the necessity for an incredibly complicated and prolonged economic investigation into the entire history of the industry involved, as well as related industries, in an effort to determine at large whether a particular restraint has been unreasonable – an inquiry so often wholly fruitless when undertaken." *Northern Pacific Ry. v. United States*, 356 U.S. 1, 5 (1958). "Cases that do not fit the generalization may arise, but a per se rule

reflects the judgment that such cases are not sufficiently common or important to justify the time and expense necessary to identify them." *Sylvania,* 433 U.S. at 50 n.16.

2. A per se rule also provides clearer guidance to business decisionmakers

"[P]er se rules tend to provide guidance to the business community and to minimize the burdens on litigants and the judicial system of the more complex rule-of-reason trials. . . ." *Sylvania*, 433 U.S. at 50 n.16. "For the sake of business certainty and litigation efficiency, we have tolerated the invalidation of some agreements that a fullblown inquiry might have proved to be reasonable." *Arizona v. Maricopa County Med. Soc'y,* 457 U.S. 322, 344 (1982).

The Antitrust Division and the Federal Trade Commission use a similar approach to providing such guidance in their various statements on their enforcement of the antitrust laws. For example, the agencies' Statements of Antitrust Enforcement Policy in Health Care describes its use of "safety zones" as follows: "The safety zones are designed to require consideration of only a few factors that are relatively easy to apply, and to provide the Agencies with a high degree of confidence that arrangements falling within them are unlikely to raise substantial competitive concerns." U.S. Department of Justice and Federal Trade Commission, *Statements of Antitrust Enforcement Policy in Health Care*, 4 Trade Reg. Rep. (CCH) ¶13,153 (August 18, 1996).

3. Per se rules deter unreasonable conduct that would otherwise go unchallenged

Per se rules also deter conduct that would be found unreasonable, but which would be allowed to continue because the costs and risks of litigation outweigh the benefits to private parties to litigate the matter through a full rule of reason analysis. Many RPM cases, including the present case, are brought by private parties. The costs to plaintiffs of proving harm under a rule of reason standard are far greater than the costs under a per se rule. The Court should recognize that a shift to rule of reason treatment for all RPM would allow some anti-competitive conduct to persist because the cost and risks of litigating the claim outweigh the economic benefits to the private parties bringing the litigation.

Moreover, any lost competitive benefits to a supplier prevented by a per se rule from engaging in a certain potentially pro-competitive practice in many cases may be mitigated when the supplier has available alternative strategies subject to a rule of reason that may achieve most or all of the same benefits. In the case of minimum RPM, many of the same competitive benefits may be achieved in the form of vertical non-price restraints that are subject to the rule of reason.

B. The Court Has Applied Rules In Between the Per Se Rule and Rule of Reason

Although this analysis is often described as a dichotomy between per se and rule of reason cases, the Court has applied standards that are a mix of rule of reason and per se rules. The result is that the choice between the per se rule and the rule of reason approaches has become "less a

dichotomy than a continuum." *National Collegiate Athletic Ass'n v. Board of Regents of the Univ. of Oklahoma*, 468 U.S. 85, 110 n.39 (1984) ("*NCAA*"), quoting Phillip Areeda, *The "Rule of Reason" in Antitrust Analysis: General Issues* 37-38 (Federal Judicial Center, June 1981).

NCAA involved limitations on the number of college football telecasts. The Court refused to apply per se treatment because the case "involves an industry in which horizontal restraints on competition are essential if the product is to be available at all." *NCAA* at 101. The Court then rejected requiring the plaintiff to meet the rule of reason requirement of proving market power. "As a matter of law, the absence of proof of market power does not justify a naked restriction on price or output. To the contrary, when there is an agreement not to compete in terms of price or output, 'no elaborate industry analysis is required to demonstrate the anticompetitive character of such an agreement.'" *NCAA* at 101, quoting *National Soc'y of Prof'l Eng'rs v. United States*, 435 U.S. 679, 692 n.39 (1978).

A quick look was later applied in *FTC v. Indiana Fed'n of Dentists*, 476 U.S. 447 (1986), which involved an agreement to refuse to supply x-rays to insurers who would use the x-rays to evaluate benefit claims. The Court did not apply per se analysis because a rule of the professional association was "imposed in the context of business relationships where the economic impact . . . is not immediately obvious." *Id.* at 458-59. The Court instead used a quick look version of the rule of reason and condemned the conduct without "elaborate industry analysis." *Id.* at 459. Thus, the plaintiff's burden of proving a full rule of reason claim was greatly reduced. The defendants were

allowed to present pro-competitive justifications, but these defenses were not found to be persuasive.

Quick look analysis condemns a certain category of restraints on competition without requiring the plaintiffs to prove market power or disprove possible defenses, while giving defendants an opportunity to present pro-competitive defenses. A quick look was also employed by the Court in *Broadcast Music, Inc. v. Columbia Broadcasting System*, 441 U.S. 1 (1979) ("*BMI*"), and in that case the Court accepted the pro-competitive arguments of the defendants.

The cases in which the Court applied a quick look have focused on whether the category of conduct involved "naked" restraints that limit competition on price or restrict output. A plaintiff is allowed to make a prima face case to establish a presumption of anti-competitive harm due to the nature of the conduct in the particular category. The burden then shifts to the defendant to demonstrate a pro-competitive justification. "Absent some countervailing procompetitive virtue – such as, for example, the creation of efficiencies in the operation of a market or the provision of goods and services – such an agreement limiting consumer choice by impeding the 'ordinary give and take of the market place,' cannot be sustained under the Rule of Reason." *FTC v. Indiana Fed'n of Dentists* at 459, quoting *National Soc'y of Prof'l Eng'rs v. United States*, at 692.

C. Minimum RPM Raises Significant Competitive Concerns

By definition, minimum RPM is intended to maintain prices at levels higher than would prevail in the absence of the RPM policy. Thus, the anti-competitive potential for

limiting competition at the retail level and reducing consumer welfare is obvious. As this Court noted in *Sylvania*, "[U]nlike nonprice restrictions, '[r]esale price maintenance is not only designed to, but almost invariably does in fact, reduce price competition not only among sellers of the affected product, but quite as much between that product and competing brands.'" *Sylvania*, at 51 n.18 (citation omitted).

RPM may also lead to inframarginal customers paying more for a product they would have purchased in any event, regardless of any promotional services offered by the resellers. William S. Comanor, *Vertical Price-Fixing, Vertical Market Restrictions, and the New Antitrust Policy*, 98 Harv. L. Rev. 983, 990-91 (1985).

Moreover, as Pitosky noted, "Another anticompetitive effect of vertical price fixing is that the manufacturer may tend to stabilize minimum prices at the *manufacturer's* level. . . . Since their dealers cannot pass along the price cut to consumers, the dealers will pocket the manufacturer's price reduction – and hence the price reduction at the manufacturer level is much less likely to occur at all." Robert Pitofsky, *In Defense of Discounters: The No-Frills Case for a Per Se Rule Against Vertical Price Fixing*, 71 Geo. L.J. 1487, 1490-91 (1983) ("Pitofsky").

Thus, the Court has rightly been concerned about the anti-competitive harm of minimum RPM in cases in which it has applied per se condemnation. The question the Court raises is a question of how to balance the benefits and costs of alternative approaches to evaluating minimum RPM.

D. The Mere Existence of Consumer Benefits Does Not Eliminate the Legitimate Role of a Per Se Rule

Various forms of price and supply discipline in "vertical" arrangements may also offer pro-competitive benefits, some of which may be significant. In particular, franchisors and franchisees may provide better service to consumers, while enhancing the value of the brand network, by agreeing on quality standards for products, providing after-sale service at reasonably predictable prices, releasing new versions of products when adequate supplies are available across a wide market, and sharing the costs of advertising in local markets.

However, nearly every type of anti-competitive action has been justified at one time or another with a claim of consumer benefits. Even naked restraints of trade have the "benefit" of saving consumers the time and effort of choosing the best product for themselves. The Court has long refused to recognize such claims regarding naked agreements on prices. *United States v. Trenton Potteries,* 273 U.S. 392, 397-98 (1927); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 224-26 (1940); *Goldfarb v. Virginia State Bar*, 421 U.S. 773, 782 (1975).

The mere existence of consumer benefits does not eliminate the benefits to those same consumers of condemning practices that are hard to detect, harder still to prove, and which rarely provide benefits that outweigh the harm.

E. Franchises Already Have Mechanisms of Control and Communication That Provide the Same "Benefits" Asserted for Minimum RPM

Our practical experience in consulting in industries in which "vertical" arrangements are common provides important insights into the degree of control and communication that already occurs in these industries, even without minimum RPM. These industries include automobiles, trucks and motorcycles, rental cars, beer, wine and spirits, and medical examinations. In each of these, franchise arrangements predominate.

A true franchise exists when one business entity (the "franchisor") provides certain services to, and exercises a small amount of control over, a range of other entities ("franchisees"), in return for a fee.[2] Franchises are different from simple resale agreements in that the franchisor and

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[2] The three essential characteristics of a "franchise" system are:

Trademark. The franchisor creates a brand identity for a product or service. This brand identity normally includes products or services that bear a trademarked symbol or name.

Significant Control. The franchisor exercises significant control over the franchisees operations. This typically includes following certain standards for representing the brand, and for service and product delivery.

Required Payment. In return for the use of the trademarked product or service, and other benefits of being part of the franchise system, the franchisee pays a fee, royalty, or other amount to the franchisor.

The FTC franchise rule is an example of a definition of franchise that relies on these three factors. See *Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures*, effective October 21, 1979, at 16 C.F.R. Part 436, available at http://www.ftc.gov/bcp/franchise/netrule.htm.

franchisee share some business risk and seek to create value for themselves by better serving the consumers.[3]

Our experience in franchised industries underscores both the benefits of some communication about prices and products within a franchise, and the risks of allowing such communication and discipline to escalate to price-fixing and market allocation of the type the per se rule was originally intended to discourage.

These benefits are the same benefits that are asserted by proponents of rule of reason treatment of minimum RPM. Consumers receive more consistent service and product quality, and reduce their search costs, by relying on "brand" identity to guide them.

For example, consumers interested in purchasing luxury vehicles look at Cadillac, Mercedes-Benz, Lincoln, and other such dealers, and not at the Saturn or Scion dealers. Dealers also have the incentive to promote the brand in order to promote their own sales, and manufacturers often provide funds to assist dealers in promoting both the brand and their own dealership. However, despite the existence of suggested retail prices for these vehicles (required by federal law to be displayed on each vehicle in a showroom), dealers and consumers are free to negotiate prices. Indeed, such negotiation is vigorous, and the

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[3] The unique valuation issues raised by franchises are discussed in Patrick L. Anderson, *Business Economics and Finance*, CRC Press, 2004. See also Roger Blair and Francine Lafontaine, *Economics of Franchising*, Cambridge Univ. Press, 2005, which discusses pricing arrangements within franchises.

consumer has benefited greatly from competition among manufacturers and their dealer networks.[4]

The experience of price competition in the automobile industry, even with significant franchisor control over franchised dealers, is one that also prevails in other industries. Blair and Lafontaine report that five separate empirical studies demonstrate variations in price even among strong fast-food franchises in local areas. Roger Blair and Francine Lafontaine, *Economics of Franchising,* Cambridge, 2005. They also cite McDonald's corporation's public statements about variation in prices among their individually-owned franchises, stating "as independent businesspeople, each individual determines his or her own prices taking into account their operating costs and the company's recommendations into consideration." McDonald's Corporation, *Standards of Business Conduct for Employees*, available at http://www.mcdonalds.com/corp/invest/gov/standards_of_business.html.[5]

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[4] Indeed, the quality-adjusted price of new vehicles in the United States has actually *declined* in recent years, according to the U.S. Bureau of Labor Statistics. For example, an urban consumer in the Midwest who spent $10,000 on a new car or truck in 1997 could purchase the same quantity and quality for just $9,351 in 2006. See United States Bureau of Labor Statistics, *EconStats*, series CPI Midwest urban new cars and trucks; available at http://www.econstats.com/BLS.

[5] The company's *Standards of Business Practice* explicitly prohibit "Entering into any formal or informal agreement or understanding with competitors that fixes, controls or affects prices, products, terms of sale, costs, profits or profit margins, markets or market share, or distribution practices." McDonald's Corporation, *Standards of Business Conduct for Employees*, available at http://www.mcdonalds.com/corp/invest/gov/standards_of_business.html.

These two industries, both of which directly serve tens of millions of consumers annually, demonstrate that communication among vertically-organized distribution systems, adherence to quality standards, reasonably predictable prices for identifiable products, and other consumer benefits are already available under the current per se prohibition of minimum price RPM.

F. Collusive Agreements Are Often Difficult to Prove

Our practical experience also underscores the difficulty in detecting and proving collusion, even when the facts clearly establish that collusion took place. Even under ideal circumstances, the price and quantity information that might be obtained are often insufficient to adequately prove collusion. As demonstrated by Anderson, an ideal data set consisting of accurate data on prices provided by multiple providers, on comparable products, at regular dates, with no changes in underlying economic conditions, may not be enough to demonstrate beyond reasonable doubt collusion using normal statistical methods. Patrick L. Anderson, *Damages in Antitrust Cases*, Anderson Economic Group working paper 2007-2, available at http://www.andersoneconomicgroup.com. A recent review of antitrust litigation by Molly L. Zohn concluded that "antitrust damage estimation in one area of law wherein courtroom statistical evidence has failed to keep pace with statistical advances in the field." Molly L. Zohn, *How Antitrust Damages Measure Up with Respect to the Daubert Factors*, Geo. Mason Law Review (13:3), 2005.[6]

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[6] Zohn discusses specifically two methods of calculating damages, the "before and after" and "yardstick" method, and concludes that

(Continued on following page)

G. New Technology Magnifies Potential Damage of RPM Schemes

New technology now allows real-time pricing and inventory information to be shared among franchisees and franchisors, thus magnifying the potential harm of minimum RPM. The practice of "yield management" or "revenue management," which gained visibility in the airline industry, is particularly noteworthy. By collecting information on prices and available quantities, yield management systems allow a seller or group of sellers to charge different prices depending on the availability of substitutes. Airline travelers are familiar with the large variation in prices charged to passengers sitting on the same plane, often in adjoining seats. It is the explicit goal of such "yield management" practices to charge *higher* prices to those travelers – such as business travelers that must travel on short notice during the workweek – who have fewer substitutes.

The existence of a per se rule against minimum RPM deters this practice from becoming a high-tech collusion device in the industries in which it is used. The specter of yield management in at least one other industry – cruise ships – has already drawn some scrutiny from the FTC in the *Royal Caribbean Cruises-Princess Cruises* merger review.[7]

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neither meet both the legal standards that might be applied under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and the standards of professional practice used by econometricians.

[7] Federal Trade Commission, In the matter of Royal Caribbean Cruises, Ltd./P&O Princess Cruises plc and Carnival Corporation/P&O Princess Cruises plc; File No. 021 0041, available at http://www.ftc.gov/os/caselist/0210041.htm.

H. The Court Should Not Completely Abandon Per Se Condemnation of Minimum RPM

William E. Cohen of the Federal Trade Commission proposed an approach for identifying horizontal restraints that are appropriate for a quick look analysis, but which also could be applied to minimum RPM. Under Cohen's approach, conduct appropriate for a quick look approach would be identified by asking "whether a restraint by its nature can be presumed to harm competition. In other words, it would ask whether a restraint is of a type traditionally condemned as per se unlawful or is so seriously anticompetitive that it becomes a candidate for truncated treatment. The inquiry might be whether the restraint limits competition on price or output or some variant thereof . . . so long as the language identifies conduct within or sufficiently close to current per se boundaries to support the necessary presumption of competitive harm." William E. Cohen, *Per Se Illegality and Truncated Rule of Reason: The Search for a Foreshortened Antitrust Analysis,* FTC Policy Planning Staff Discussion Draft, Section III(A)(3) (Nov. 1997), available at http://www.ftc.gov/opp/jointvent/persepap.htm.

Minimum RPM, based on its history of per se treatment and continuing potential for anti-competitive harm, is an appropriate candidate for quick look treatment, if the Court does not continue per se condemnation.

Under such a "quick look" review, once conduct is identified as minimum RPM, the defendant would be given the opportunity to present competitive justifications. Economic analysis describes a number of situations in which RPM may promote rather than impede competition. Thus, for example, the defendant could show that the specific minimum RPM employed by the defendant may stimulate

interbrand competition by encouraging resellers to promote the product, and may prevent resellers from free-riding off promotional activities of their horizontal competitors.

If the court finds those justifications persuasive, then the plaintiff would lose the benefit of presumption of competitive harm, and would be required to prove a rule of reason case to prevail. If the defendant cannot demonstrate pro-competitive justifications, then the plaintiff would not be required to show market power and demonstrate anti-competitive harm.

As Pitofsky concluded,

> "Allowing occasional exceptions is not inconsistent with per se treatment. The justification for a per se approach is that minimum price fixing is often a response to dealer pressure, detecting that fact is extremely difficult, the effects at the dealer level (and occasionally the manufacturer level) are highly anticompetitive, and the purported business justifications of those arrangements can usually, if not always, be achieved in some less restrictive way. Limited and carefully defined exceptions are a way of preserving efficient enforcement while accommodating those relatively few situations that merit more extended analysis."

Pitofsky, at 1495.

There still remain situations where anti-competitive minimum RPM practices can be identified without a full rule of reason analysis. For these situations, per se treatment of minimum RPM still promotes competition, and some form of per se treatment should continue.

CONCLUSION

The judgment of the court of appeals should be upheld or modified to preserve per se condemnation of minimum resale price maintenance as the general rule while allowing exceptions for pro-competitive efficiencies.

Respectfully submitted,

THEODORE R. BOLEMA

CENTRAL MICHIGAN UNIVERSITY